

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ROBERT H. GOODMAN, JR.,

Defendant.

4:18-CR-3092

MEMORANDUM AND ORDER

This matter is before the Court on the defendant's objection ([filing 45](#)) to the Magistrate Judge's findings and recommendation ([filing 44](#)) that the defendant's motion to suppress evidence obtained by search warrant ([filing 31](#)) be denied. The Court has conducted a de novo review of the motion to suppress, pursuant to [28 U.S.C. § 636\(b\)\(1\)](#). On its de novo review, the Court agrees with the Magistrate Judge's findings and recommendation, and will adopt them.

The Court, when reviewing an affidavit in support of a search warrant, considers the totality of the circumstances to determine whether probable cause exists to justify issuance of the warrant. *Illinois v. Gates*, 462 U.S. 213, 230 (1983). Probable cause for a search warrant exists when the facts in the affidavit establish a fair probability that evidence of criminal activity will be found in the place, or, as in this case, the items to be searched. *Id.* at 238.

The defendant argues that the Magistrate Judge's findings and recommendation incorrectly characterized the defendant's statement in a telephone conversation. However, without considering this conversation, the Court finds that there is a sufficient factual basis in the officer's affidavit to establish a fair probability that the defendant was engaged in criminal activity—that being the transport and delivery of marijuana—and that evidence of this criminal activity will be found in a search of his cell phone and iPad. The affidavit described the circumstances of the defendant's arrest, his

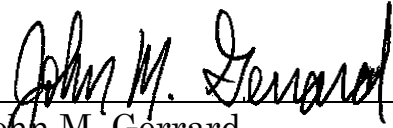
voluntary statements regarding his activities, his consent to an exterior K-9 inspection of his vehicle, and the evidence found as a consequence of the traffic stop, together with the officer's training and experience with narcotic-related activity. The Court finds that that the evidence recited in the officer's affidavit sufficiently supports the issuance of the warrant to search the defendant's electronic devices.

IT IS ORDERED:

1. The Magistrate Judge's Findings, Recommendation, and Order ([filing 44](#)) are adopted.
2. The defendant's objections ([filing 45](#)) are overruled.
3. The defendant's motion to suppress ([filing 31](#)) is denied.

Dated this 9th day of April, 2019.

BY THE COURT:



John M. Gerrard
Chief United States District Judge